

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Investigation of Certain Price Cap Local)
Exchange Carrier Business Data Services Tariff)
Pricing Plans)

WC Docket No. 15-247

OPPOSITION TO JOINT REQUEST FOR EXTENSION OF TIME

Sprint Corporation (“Sprint”) hereby submits this Opposition to the Joint Request for Extension of Time of AT&T Inc., Verizon, CenturyLink, and Frontier (together, the “incumbent LECs” or “ILECs”), filed in the above-referenced proceeding.¹ As discussed below, this request is another in a long series of attempts to delay action on special access-related proceedings without justification. The Federal Communications Commission (“FCC” or “Commission”) should promptly reject this request and affirm its commitment to move this proceeding to an expeditious conclusion.

DISCUSSION

On December 9, 2015, the ILECs requested that the Commission delay the deadline by which they must submit their Direct Cases in response to the FCC’s investigations of their unjust and unreasonable behavior.² This filing is no more than another in a series of attempts by the ILECs to forestall Commission proceedings related to the special access market. Most recently, the ILECs, through their trade organization, sought to extend the deadline for submitting

¹ Joint Request for Extension of Time of AT&T, Inc., Verizon, CenturyLink, and Frontier, WC Docket No. 15-247 (Dec. 9, 2015) (“Incumbent LEC Request”).

² *Id.*

comments in response to the FCC's special access data collection in Docket 05-25.³ On November 18, 2015, Sprint filed an opposition to this request, and included a declaration by Susan M. Gately demonstrating that the ILECs' purported reasons for delay were without merit.

The ILECs' new delay attempt largely recycles their arguments from this earlier filing.⁴ The Commission should reject it for the same reasons explained in Sprint's November 18 refutation, which we include as an attachment to this Opposition so the FCC can include it in the record of the tariff investigation proceeding.

The ILECs introduce only two new arguments in their December 9 request, neither of which supports delay. First, they argue that, although they had access to the special access data set before the Commission granted their request to add it to the tariff investigation, this is not relevant to the FCC's consideration of their request for delay. This is incorrect. The ILECs state they intend to use this data to analyze "the allegation that purchasers of business data services lack alternatives to ILEC special access services."⁵ It is important to note that the ILECs' articulation of the premise for Commission action is incorrect. The question is whether competition is disciplining incumbent behavior, not whether *any* alternative seller exists. Nonetheless, this analysis is precisely what the ILECs have been executing within the FCC's data enclave since it opened. Consequently, the analysis that the incumbents state is important to both the tariff investigation and the special access rulemaking proceeding is well underway, and

³ Joint Request for Further Extension of Time of the United States Telecom Association and ITTA – The Voice of Mid-Size Communications Companies, WC Docket No. 05-25 (Nov. 10, 2015) ("USTelecom Request").

⁴ "For the reasons discussed in the separate Motion for Extension of Time filed by USTelecom and ITTA, a twelve-week extension would be necessary, at a minimum, for a comprehensive geospatial analysis of the data and is therefore the most appropriate extension of time." Incumbent LEC Request at 1.

⁵ Incumbent LEC Request at 3.

as Sprint's November 18 Opposition demonstrates, the allotted time is adequate for this work. The only difference is that the Commission has granted the ILECs' request to use this analysis for both proceedings. This decision did not cause any additional delay for the ILECs and does not support extending their filing deadline.⁶

Second, the ILECs argue that they require extra time because the tariff investigation "includes allegations that the ILECs' tariffs have locked in all or most of the [competitive local exchange carriers'] special access demand" and therefore "this proceeding will require *additional* analysis of the data set."⁷ This is also incorrect. Both the special access rulemaking proceeding and the tariff investigation include questions about the role of anticompetitive ILEC terms and conditions. As the Commission stated in the most recent special access Notice of Proposed Rulemaking, "To more fully understand competition in the special access market and appropriately craft rules for regulatory relief, we will also seek data and information on the terms and conditions offered by incumbent LECs for special access services."⁸

⁶ Likewise, the ILECs' argument that the newly adopted protective order will not provide access to the data until December 16 is a red herring. The protective order allows the use of the data obtained in the data collection to be used by parties in the tariff investigation. It does not prohibit the experts that have been analyzing such data to use the same analysis in the tariff investigation (or from sharing such analysis with any new experts that may sign onto the new protective orders). As described herein, the ILECs' experts have had access to this data since the data enclave opened. Surely the ILECs plan to utilize the hard work that their experts have already performed, rather than starting from scratch as of December 16.

⁷ Incumbent LEC Request at 5. Here too the incumbent LECs' articulation of the importance of the information the FCC has collected is incorrect. The ILECs' articulation in their Request shows that they will argue that if competitive local exchange carriers buy *any* special access from non-ILEC suppliers then the terms are not anticompetitive. Such a claim is absurd. Information about terms and conditions is important to demonstrate that incumbent LECs are using a variety of terms to raise the cost of competitive entry, punish customers who attempt to move to a competitor, and leverage dominance over certain products and geographies into dominance in other products and geographies. That some purchasers are able to escape some ILEC terms and buy from alternative vendors in some instances does not mean that the ILECs' use of anticompetitive terms is just and reasonable.

⁸ Report and Order and Further Notice of Proposed Rulemaking, *Special Access for Price Cap*

The ILECs have therefore been hard at work analyzing the information related to terms and conditions in the data enclave since the FCC first made such information available. Sprint's November 18 Opposition demonstrates that the provided time is adequate for the tasks and analysis to be performed. As with the data related to the level of competitive discipline on incumbent behavior, the only change is that the FCC granted the incumbent LECs' request to use this analysis in both the special access rulemaking proceeding and the tariff investigation. This did not produce extra delay and does not support extending their deadline.

Importantly, there is no justifiable explanation for the length of delay that the Joint Petitioners request. There are no conceivable circumstances under which any expert analyzing the data would need an additional twelve weeks to complete his or her work. The incumbent LECs go to great lengths to dress up their request with the implication that they are undertaking groundbreaking forms of economic analysis ("a twelve-week extension would be necessary, at a minimum, for a comprehensive geospatial analysis of the data"⁹). This certainly sounds impressive. But analyzing where providers have customers and what they charge in these areas through multiple geographical lenses and tools is common course for the experts retained in this proceeding and is not the type of analysis that these experts need an three additional months to complete. It is also important to recall that it was the very companies now seeking delay, after analyzing the data filed in Docket 05-25, that sought its inclusion in the instant docket. And now, after the FCC granted their request, the ILECs argue they must be given additional time to determine how the data should be used. The Commission should not allow the ILECs to use this gambit to delay the tariff investigation.

Local Exchange Carriers, WC Docket No. 05-25, FCC 12-153 at ¶ 91 (rel. Dec. 18, 2012).

⁹ Incumbent LEC Request at 1.

The real goal of the ILECs in seeking yet another postponement is to forestall FCC action addressing their unjust and unreasonable conduct. These tactics have worked for more than ten years—the businesses, schools, local governments, and competitors that depend on access to dedicated broadband services should not have to suffer through yet another unjustified delay.

CONCLUSION

For the foregoing reasons, the FCC should promptly dismiss the Joint Petitioners' request for delay in this investigation and move forward as scheduled to ensure an expeditious conclusion.

Respectfully submitted,

SPRINT CORPORATION

/s/ Charles W. McKee

Charles W. McKee
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900 Seventh St. NW, Suite 700
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December 14, 2015

ATTACHMENT

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Special Access Rates for Price Cap Local)	WC Docket No. 05-25
Exchange Carriers)	
)	
AT&T Corp. Petition for Rulemaking to)	RM-10593
Reform Regulation of Incumbent Local)	
Exchange Carrier Rates for Interstate)	
Special Access Services)	

OPPOSITION TO JOINT REQUEST FOR FURTHER EXTENSION OF TIME

Sprint Corporation (“Sprint”) hereby submits this Opposition to the Joint Request for Further Extension of Time of the United States Telecom Association (“USTelecom”) and ITTA – The Voice of Mid-Size Communications Companies (together the “Joint Petitioners”) filed in the above-referenced proceedings.¹ As discussed below, this request amounts to yet another transparent, groundless attempt to delay action in this important rulemaking proceeding. The Federal Communications Commission (“Commission” or “FCC”) promptly should reject this request and thereby send an unambiguous message that it is committed to moving this proceeding to an expeditious conclusion.

DISCUSSION

The Commission must view this request against the backdrop of the incumbent local exchange carriers’ (“incumbent LECs”) repeated attempts to delay meaningful FCC action to reform special access rates, terms, and conditions in this proceeding. As INCOMPAS and the

¹ Joint Request for Further Extension of Time of the United States Telecom Association and ITTA – The Voice of Mid-Size Communications Companies, WC Docket No. 05-25 (Nov. 10, 2015) (“Joint Request”).

Competitive Carriers Association aptly summarized in opposing the Joint Petitioners' first request for an extension of time:

[T]he incumbents have done everything in their power to ward off Commission action in this area. For years, they insisted that the Commission could not adopt reforms until it collected comprehensive data from participants in the special access marketplace. When the Commission agreed in late 2012 to collect this data, the incumbents abruptly began opposing the very data collection that they had once demanded. After the Commission finally overcame these obstacles, collected the data, and made it available for comment, the incumbents pivoted again. Their most recent tactic has been to argue that . . . the special access data "already is stale."²

The Commission also must consider that some of the very delays in making the data available that the Joint Petitioners complain about are directly traceable to the actions of USTelecom's members. In recent months, both Verizon and CenturyLink have filed "corrective" data submissions.³ Notably, Verizon did not file its most recent "correction" until September 25.⁴

Viewed through this lens, it is hardly surprising that the Joint Petitioners have renewed their efforts to delay this proceeding even further, despite the fact that several of the considerations they cite to justify their extension request have been well-known to their members and others for many months. For example, their emphasis on the "volume and complexity of the data involved in this proceeding" raises no novel issue that would warrant the relief they seek.⁵

² Opposition of INCOMPAS and the Competitive Carriers Association to Request for Extension of Time, WC Docket No. 05-25, at 2 (Oct. 23, 2015).

³ See, e.g., Letter from Frederick E. Moacdieh, Verizon, to Marlene H. Dortch, FCC Secretary, WC Docket No. 05-25 (Apr. 17, 2015); Letter from Frederick E. Moacdieh, Verizon, to Marlene H. Dortch, FCC Secretary, WC Docket No. 05-25 (July 13, 2015); Letter from Craig J. Brown, CenturyLink, to Marlene H. Dortch, FCC Secretary, WC Docket No. 05-25 (Mar. 9, 2015) ("providing a portable drive . . . that revises the data").

⁴ Letter from Frederick E. Moacdieh, Verizon, to Marlene H. Dortch, FCC Secretary, WC Docket No. 05-25 (Sept. 25, 2015) (manually submitting a further "corrective resubmission of its data container in response to the Special Access Data Collection").

⁵ Joint Request at 2.

Indeed, the Commission expressly noted the significant “size and complexity of the data collection” as a factor in its decision to extend the pleading cycle to early January.⁶

Similarly, the Joint Petitioners complain that their economic team must “perform all of its analyses remotely through the NORC platform,” and claim that “working through the virtual private network connection is much slower than working on local systems.”⁷ The Order issued by the FCC more than a year ago made clear that, under its arrangement with NORC, interested parties would only be able to access and analyze data inside of “secure virtual data rooms.”⁸ Notably, their prior request for additional time, filed less than a month ago, did not mention this concern.⁹ The Joint Petitioners also claim that their economic team needs months of additional time to become familiar with software applications and tools that are installed in the virtual data rooms. Those consultants have known since last year that they might be required to use only software and analytical tools installed in the secure enclave,¹⁰ and they offer no specific explanation as to why months are needed to acquire the necessary familiarity.

Notwithstanding their request for an indefinite extension of time, the Joint Petitioners concede that they now have access to the data enclave and that a significant amount of work can be undertaken, irrespective of when all updates to the data are complete. For example, while the

⁶ *Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Order, WC Docket No. 05-25, DA 15-1239, ¶ 7 (Nov. 2, 2015).

⁷ Joint Request at 13.

⁸ *Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Order and Data Collection Protective Order, 29 FCC Rcd 11657, ¶¶ 12-15 (2014) (“Data Collection Protective Order”).

⁹ Joint Request for Extension of Time of the United States Telecom Association and ITTA – The Voice of Mid-Size Communications Companies, WC Docket No. 05-25 (Oct. 21, 2015).

¹⁰ Data Collection Protective Order ¶¶ 16-17.

Joint Petitioners note that the “experts cannot write or finalize their computer programs” at this time, they also assert that their economic team “has been writing computer programs and planning how they will conduct their analysis in advance.”¹¹

In addition, while stressing the shortcomings of the current data set, the Joint Petitioners acknowledge that “Bureau staff and NORC have been responsive to requests to install some useful software and have made it available for users of the Data Enclave.”¹² While it may not be possible to perform every type of economic analysis of the data at the present time,¹³ that is not to say that no useful analysis can be conducted now or that no meaningful analysis can be completed before the current comment deadline in this proceeding.

Indeed, parties will not start their analysis from square one when the data set is refreshed. Rather, as explained in the attached declaration of Susan M. Gately, who has significant experience analyzing large, complex data sets, parties can use their existing access to the data enclave to identify the files with the most useful data and determine the types of analysis that can be completed.¹⁴ Parties also can begin calculating key factors, such as basic market shares and concentration ratios, that unquestionably bear on the FCC’s review of the existing special access regulatory structure.¹⁵ Moreover, these sorts of outputs readily can be updated and revised when the data is refreshed and can be finalized well before comments are due.¹⁶

Nevertheless, the Joint Petitioners insist that they are entitled to what amounts to an indefinite delay in this proceeding. For example, the Joint Petitioners’ suggestion that the

¹¹ Joint Request at 12.

¹² *Id.* at 9.

¹³ *Id.* at 12.

¹⁴ See Declaration of Susan M. Gately ¶ 4, attached hereto.

¹⁵ See *id.* ¶ 5.

¹⁶ See *id.* ¶¶ 4, 5.

extension commence only after the data set is complete is an open invitation for parties to submit further revisions to their own data or to claim that even very minor revisions to the data set warrant further delay. Worse yet, the unworkably vague request that the multi-month extension not even begin until “all software and tools necessary to conduct relevant data analysis have been made available by NORC” invites parties to continually assert that additional software or tools are needed to perform their analysis, irrespective of whether this is actually the case.¹⁷

Finally, the Commission should reject the Joint Petitioners’ suggestion that all data must be complete and formatted perfectly before parties have a reasonable opportunity to participate in the proceeding as required by the Administrative Procedure Act.¹⁸ If, as expected, the revisions to the data set are complete by late November, parties will have more than five weeks to prepare their initial comments. The facts underlying the cases the Joint Petitioners cite with respect to the appropriate amount of time that parties should have to comment cannot plausibly be compared to the circumstances of this proceeding.¹⁹

In sum, the data set assembled by the FCC is by far the most comprehensive ever compiled about the special access marketplace and provides a more than sufficient basis for evaluating the competitiveness of the marketplace. The Commission should permit this important process to proceed.

¹⁷ Joint Request at 2.

¹⁸ *Id.* at 13-15.

¹⁹ In *North Carolina Growers’ Association*, for example, the court concluded that a *ten-day* pleading cycle did not provide a meaningful opportunity to comment on the Department of Labor’s decision to suspend existing regulations and implement the regulatory structure that was in place twenty-five years before. *North Carolina Growers’ Association, Inc. v. United Farm Workers*, 702 F.3d 755 (4th Cir. 2012).

CONCLUSION

For the foregoing reasons, the FCC should promptly dismiss the Joint Petitioners' request for delay in this proceeding and affirm its commitment to moving this proceeding forward to a prompt resolution.

Respectfully submitted,

/s/ Charles W. McKee

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November 18, 2015

CERTIFICATE OF SERVICE

I, Erica A. Bettenhausen, do hereby certify that on this 18th day of November, 2015, I caused true and correct copies of the foregoing Opposition to Joint Request for Further Extension of Time of Sprint Corporation to be served by electronic mail to the following:

Diane Griffin Holland
United States Telecom Association
dholland@ustelecom.org

Jonathan Banks
United States Telecom Association
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Micah M. Caldwell
ITTA – The Voice of Mid-Size Communications Companies
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/s/ Erica A. Bettenhausen
Erica A. Bettenhausen

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Special Access Rates for Price Cap Local)	WC Docket No. 05-25
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Special Access Services)	

DECLARATION OF SUSAN M. GATELY IN SUPPORT OF SPRINT'S OPPOSITION

1. My name is Susan M. Gately. I am President of SMGately Consulting, LLC, a consulting firm specializing in telecommunications, economics, and public policy. I have participated in numerous proceedings before the Federal Communications Commission dating back to 1981 and have appeared as an expert witness in proceedings before state public utility commissions. My Statement of Qualifications is appended hereto as Attachment A.
2. I have been engaged by Sprint to analyze the Commission's collection of data on special access services and submit this declaration in support of Sprint's opposition of the request by USTelecom and ITTA for an extension of time to file comments in this proceeding. In particular, I seek to address three major concerns that Glenn Woroch cited in his declaration supporting the request for an extension of time and why I believe that none of them is well-founded.
3. First, Dr. Woroch expressed concern with delays in gaining access to the data but noted that his team secured full access by October 20, 2015. I gained access to the data at approximately the same time (October 15, 2015) and have been working diligently in the secure data enclave since that time. Given that the prior delays to accessing the data have been fully resolved, this matter has no bearing on the current timeframe for my analysis.

4. Second, Dr. Woroch expressed concern about updates that have been made to the data set as well as an update that is expected to occur in the immediate future. I am less concerned than Dr. Woroch appears to be about these updates, because my understanding is that the upcoming data refresh will consist of a change to the data itself but not to the structure of the data. I already have made significant headway in understanding the data and the structure of the special access marketplace and have undertaken substantial preliminary work required to prepare for my analysis. Indeed, because I was aware of this forthcoming, limited change, I have been able to structure large parts of my analysis in a manner specifically designed to incorporate this update. For example, the outputs I have generated readily can be updated and revised when the data are refreshed. Because data analysis naturally is an iterative process that involves continuing refinements, the types of data updates Dr. Woroch cites should not materially extend the time required to conduct my analysis.
5. Third, Dr. Woroch claims to require eight to ten weeks after the data set is stable to conduct his analysis and report his results. In my opinion, this extra time is unnecessary. Based upon current projections of when the data set will be stable, I expect to complete my analysis within the existing comment schedule. Moreover, as noted above, any implication that substantive work cannot be done until the data set is stable should be disregarded. I have used the existing data to complete substantial preliminary and set-up work, virtually all of which is a necessary precursor to my final analysis. Specifically, I have identified the files with the most useful data and determined the types of analysis that can be completed using those files. I also have begun calculating key factors, such as basic market shares and concentration ratios. Notably, even if the data set had been stable several weeks ago, I still would have had to devote this time to preparatory work and likely would not yet have undertaken my final analysis. Accordingly, the existing comment schedule should be sufficient for me to conduct my final analysis and report my results.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink that reads "Susan M. Gately". The signature is written in a cursive style, with the first name "Susan" in a larger, more legible script, and the middle initial "M" and last name "Gately" in a more compact, flowing script.

Susan M. Gately

Dated: November 18, 2015

Attachment A

Susan M. Gately

Statement of Qualifications

Susan M. Gately founded SMGately Consulting, LLC (SMGC) in January of 2011. Susan is an economic and policy expert specializing in the telecom arena with more than thirty years of consulting experience. Her specific experience lies in the areas of

- Telecom industry structure;
- Regulatory regimes;
- Cost development;
- Access charges;
- Pricing and rate structure; and
- Telecom services and network management practices.

Prior to founding SMGC Susan was a partner in and the Senior Vice President at Economics and Technology, Inc. (ETI) providing advising, litigation support, expert testimony, white papers, and in-house training and education to ETI's myriad carrier, governmental agency and large business clients. Susan has provided expert testimony on a variety of telecom policy matters and participated in hundreds of FCC proceeding on access charges, universal service, separations and cost accounting, and form of regulation.

Susan has been involved in the analysis of incumbent LEC intrastate and interstate access tariffs since the inception of the tariffs in 1984. She has participated in virtually every major FCC proceeding on access charges and price caps, and is among the nation's leading experts on access charge rate structure, methodology, and policy. Access issues addressed in the hundreds of submissions made to the FCC include access service pricing and rate structures, price caps implementation, access service costs (including cost allocation of regulated and non-regulated services), and alternative forms of regulation. Susan undertook detailed analysis of the data filed in response to the FCC's first "voluntary data request" in its special access proceeding Docket 05-25 throughout 2012.

More recently, she engaged in comprehensive analysis of issues related to terminating access monopolies in the context of the FCC's proceedings on "Protecting and Promoting the Open Internet" ultimately preparing a detailed rebuttal, [*Declaration in Rebuttal of Lerner / Ordovery Declaration*](#) filed in that docket to a Declaration prepared by Andres Lerner and Janusz Ordovers.

Throughout 2011 Ms. Gately was an active participant in the FCC's USF / ICC proceeding on behalf of the AdHoc Telecommunications Users Committee preparing and submitting two separate declarations and visiting the FCC on multiple occasions to discuss the results of her analyses. In particular, Ms. Gately devoted significant effort in the analysis of RLEC cost data filed as part of that proceeding and quantification of the financial impact upon RLECs of the potential combination of reduced USF payments and reduced access charge revenues.

For the last several years Ms. Gately has also been particularly active in the analysis of special access pricing, cost, and separations data. In 2010 she authored a paper entitled [*Longstanding Regulatory Tools Confirm BOC Market Power: A Defense of ARMIS*](#). The paper detailed the workings of and interactions between Parts 36 and 69 of the FCC's rules (the results of which are codified in ARMIS for the largest of the ILECs). Susan has been involved in the analysis of incumbent LEC intrastate and interstate access tariffs since the filing of the initial access tariffs in 1983. Ms. Gately has participated in the preparation of hundreds of submissions to the FCC on issues including access service pricing and rate structures, price caps implementation, access service costs (including cost allocation of regulated and non-regulated services), and alternative forms of regulation.

Ms. Gately has also devoted significant time over the last several years to researching and analyzing conditions extant in the wireline and wireless telecommunications markets in the US, the conditions that have led to the current market structures and the implications for users of those networks. In addition to the ARMIS paper identified above Ms. Gately's research and analysis in this area where codified in the following papers released in 2010. [*Regulation, Investment and Jobs: How Regulation of Wholesale Markets Can Stimulate Private Sector Broadband Investment and Create Jobs*](#) (With Helen E. Golding, Lee L. Selwyn and Colin B. Weir. Released in February, 2010.) [*Revisiting US Broadband Policy: How Reregulation of Wholesale Services Will Encourage Investment and Stimulate Competition and Innovation in Enterprise Broadband Markets*](#) (With Helen E. Golding, Lee L. Selwyn and Colin B. Weir. Released in February, 2010.)

Ms. Gately's most recent analysis of small independent company universal service issues in relation to the FCC's 2011 USF / ICC proceeding built upon her extensive past analysis of similar issues (as they relate to both state and interstate universal service funds). Beginning in 2003 and following on for the next several years she researched and documented systemic incentives to inefficiencies inherent in the FCC's USF funding mechanism. The primary documentation of that early work was a paper entitled *Lost in Translation: How Rate of Return Regulation Transformed the Universal Service Fund for Consumers into Corporate Welfare for the RLECs*, (with Scott C. Lundquist) prepared on behalf of Western Wireless, February 2004.

That work was followed later that same year with *Striking a Nerve: ETI's Rejoinder to the NTCA/OPASTCO False Premises Report*, (with Lee L. Selwyn and Scott C. Lundquist) also prepared on behalf of Western Wireless, October 2004. Ms. Gately has prepared presentations on this issue for use at en banc panels of the Federal State Board on Universal Service and presented a session at NASUCA's 2005 annual conference as well.

Among other issues addressed at the FCC has been the appropriate rate structure for the collection of universal service costs from end users, and rules related to the level of universal service funding that should be available to rural telecommunications service providers. Ms. Gately was also actively involved in the investigation of the level of cost to be recovered from the implementation of local number portability (LNP) and the appropriate method of recovering those costs. Ms. Gately was also involved in modeling and analysis of the FCC's last major revision to its access charge and price caps plan — the so called "CALLS" plan.

Ms. Gately has also been extensively involved in the analysis of cost and operational data submitted by telephone companies in the context of regulatory proceedings and audits, including the submission of expert testimony in state public utility proceedings. Her responsibilities have involved the analysis of telephone company cost data and cost study methodologies. Ms. Gately's work has included the development of alternative cost figures for the purpose of presenting alternative rate proposals. She has participated in the preparation of expert testimony on local calling area expansion, affiliate transactions, survey and statistical methodologies, cost study methodologies, revenue requirement, infrastructure and modernization, new service pricing, access pricing, unbundled network element pricing, avoided retail costs for use in setting wholesale prices and other issues related to the opening and operation of markets.

Throughout 1994, acting as a staff expert for the Delaware PSC Staff, Ms. Gately participated actively in the litigation of rules implementing an alternative regulatory plan put in place by the Delaware state legislature. Ms. Gately was one of the designated staff negotiators during an attempted negotiated settlement of the rules using Alternate Dispute Resolution (ADR) techniques. Subjects addressed by the PSC's Rulemaking included, among other things, the development of both incremental and fully distributed costing methodologies to be used by Bell Atlantic for use as incremental cost floors, and to ensure against cross-subsidization. She co-authored comments on behalf of staff regarding cost methodology, rate imputation, and unbundling requirements.

Ms. Gately was particularly active in the examination of ILEC cost data and deployment plans for basic rate interface (BRI) ISDN service. Ms. Gately was involved in all facets of a New

England Telephone BRI ISDN investigation that culminated in an affordable, widely deployed ISDN offering in Massachusetts. She has also prepared and/or sponsored testimony and comments relative to the deployment and pricing of ISDN services in Colorado, Tennessee, Texas, Ohio, and Connecticut. Ms. Gately also co-authored two separate ISDN position papers in conjunction with Dr. Lee L. Selwyn; *A Migration Plan for Residential ISDN* for the Electronic Frontier Foundation and *The Prodigy ISDN White Paper: ISDN Has Come of Age* for Prodigy Services Company.

Ms. Gately was also heavily involved in the development of avoided cost estimates for use in setting wholesale prices in a resale environment. Ms. Gately co-authored (with Dr. Lee L. Selwyn) *Commercially Feasible Resale of Local Telecommunications Services: An Essential Step in the Transition to Effective Local Competition*. She has participated in resale proceedings and or interconnection arbitrations (relative to wholesale pricing) in California, Hawaii, Illinois, Ohio, Puerto Rico, Nevada, and Louisiana.

Ms. Gately was also involved in the analysis of issues related to the application of several of the Bell Companies for Section 271 authority to enter the interLATA long distance market. Ms. Gately has also undertaken a detailed analysis of the Continuing Property Record (CPR) audits conducted by the Accounting and Audits Division of the FCC. That analysis culminated in the preparation of a paper (written in conjunction with Dr. Lee L. Selwyn) *Inflated BOC Prices: An Agenda for State PUC Actions Arising from the FCC CPR Audits*.

Ms. Gately has assisted numerous Fortune 100 companies in the evaluation of pricing, terms and conditions as part of the long distance and local procurement process.

In addition to her regulatory work, Ms. Gately has been a frequent speaker at various industry gatherings including large conventions and more specialized seminars and conferences. The subject matters have included the following wide range of issues:

- Negotiation of custom network contracts;
- ILEC central office collocation;
- The FCC's price cap plan for ILECs;
- Principles for pricing ISDN basic rate service.
- USF Funding for wireless CETCs
- Reformation of the USF High Cost Fund

Statement of Qualifications

Susan M. Gately

Page 5 of 8

Prior to joining ETI, Ms. Gately was employed as an Economic Analyst at Systems Architects, Inc. Her work there primarily involved the analysis of economic data and survey results for the Health Care Finance Administration, the Social Security Administration, and the Department of Defense.

Susan has a Bachelor of Arts degree in Economics from Smith College (1980).

Appearances in Regulatory Proceedings

Telecommunications Regulatory Board of Puerto Rico, *Telefónica Larga Distancia de Puerto Rico, Inc., Petition for arbitration pursuant to Section 47 U.S.C. 252 (b) of the Federal Communications Act and Section 5 (b), Chapter III, of the Puerto Rico Telecommunications Act, regarding interconnection rates, terms and conditions with Puerto Rico Telephone Company, Inc.*, Docket No. JRT-2006-AR-0001, on behalf of Telefónica Larga Distancia de Puerto Rico, Inc., Direct Testimony filed January 16, 2007, Reply Testimony filed February 7, 2007, cross-examination February 14, 2007, Declaration filed March 30, 2007.

United States District Court, District of New Jersey, in *Re: AT&T Corp. v. JM Telecom, LLC*, Civil Action No. 99-2578, on behalf of AT&T Corp., Expert Report filed December 5, 2003.

California Public Utilities Commission, in *Re: Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charges*, Docket No. R.03-08-018, on behalf of AT&T Communications of California, Inc. Declaration filed November 12, 2003.

Colorado Public Utilities Commission, in *Re: Application of US West Communications, Inc. for Investigation into Switched Access Rates*, Docket No. 00A-201T, on behalf of AT&T Communications of the Mountain States, Inc., Testimony of Lee L. Selwyn, filed July 18, 2000, adopted by Susan M. Gately, cross-examined on October 17, 18, 2000.

Arizona Corporation Commission, in *Re: In the Matter of the Application of US West Communications, Inc., a Colorado Corporation, for a Hearing to Determine the Earnings of the Company, the Fair Value of the Company for Ratemaking Purposes, to Fix a Just and Reasonable Rate of Return Thereon and to Approve Rate Schedules Designed to Develop Such Return*, Docket No. T-1051B-99-105, on behalf of AT&T Communications of the Mountain States, Direct Testimony filed August 9, 2000, Supplemental Direct Testimony filed November 13, 2000.

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CERTIFICATE OF SERVICE

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I hereby certify that on December 14, 2015, true and correct copies of the foregoing *Opposition to Joint Request for Extension of Time* and attachments were provided via first class U.S. Mail and/or electronic mail to the following:

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